IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2892 OF 2005

Shaukat Habibn Faruki. ... Applicant.
Versus.
State of Maharashtra. ... Respondent.

Shri Vishal Ingawale i/by Shri Mubin H.Solkar for the Applicant.

Shri A.S.Gadkari, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 23rd June, 2005.

P.C.:

1. Heard the learned Counsel appearing for the Applicant and the learned A.P.P. The learned Counsel for the Applicant states that the application made by the Applicant for Bail is pending before the learned Special Judge and the Applicant wants to claim parity. He, therefore, seeks permission to withdraw this Application.

2. While the prayer made by the Applicant deserves to be granted, this Application cannot be disposed without referring to the report of the learned Special Judge called for by this Court. The report appears to have been called for by this Court as an assertion has been made in this Application that the trial has virtually come to a stand still and there are no prospects of it being concluded in near future. It is alleged that the

learned Special Judge has found no time to decide the bail application which is pending before the Special Court for more than seven months.

3. I have perused the report dated 4th May 2005. The report discloses that the learned Special Judge is entrusted with Best Bakery trial which has been made time bound by the Apex Court. The initial direction of the Apex Court was to decide the said case by 31st December 2004 and on the request of the learned Special Judge, the Apex Court has extended the time. The learned Judge has recorded that in the said Best Bakery re-trial he has till the date of the report recorded evidence running into more than 2500 typewritten pages and there are more than 275 exhibits and articles tendered in evidence. It is noted in the report that in the present case in which bail application is made, he completed recording of entire evidence which runs into 1200 typewritten pages with 145 documents and 168 articles. He has recorded that in the present case, which is obviously very bulky, final arguments of the learned Public Prosecutor were completed and only thereafter, the Application for bail came to be filed by the Applicant in November 2004 after the learned Judge started Best Bakery retrial on the basis of the directions of the Apex Court. He has stated that considering the fact that in the present case evidence runs into 1200 typewritten pages with 145 documents and

168 articles and considering the fact that he is required to meet the deadline fixed by the Apex Court in the Best Bakery retrial, it became impossible for him to deal with the bail application filed by the Applicant. After perusal of the report of the learned trial Judge and a copy of the roznama annexed to this Application, I am satisfied that the learned Special Judge cannot be blamed for delay in disposal of the bail application. It is obvious that the bail application has remained pending due to the circumstances beyond the control of the learned Special Judge. Hence while dismissing this application as withdrawn, it must be stated that the explanation offered by the learned Special Judge for the delay in disposal of the bail application deserves to be accepted and the same is hereby accepted. A copy of this order be forwarded to the learned Special Judge.

4. The Application is dismissed as withdrawn.

Judge.